

Consent Agenda Item 1.d

July 17-18, 2019 Board Meeting

Case No. 19CW3061 (Water Division 5); StarView Holdings, LLC

Summary of Water Court Application

This is an application for storage water rights and augmentation plan.

Staff Recommendation

Staff recommends that the Board ratify the filing of a Statement of Opposition filed on behalf of the Board in June 2019 to protect CWCB's instream flow water rights.

CWCB Instream Flow Water Rights

The CWCB holds water rights, including the following instream flow water rights in Water Division 5 in the Roaring Fork River Watershed, that could be injured by this application:

Case Number	Stream	Upper Terminus	Lower Terminus	CFS Rate (Dates)	Approp. Date
W-2948	Roaring Fork River	Confluence Difficult Creek	Confluence Maroon Creek	32 (1/1-12/31)	01/14/1976
85CW0646	Roaring Fork River	Confluence Maroon Creek	Confluence Fryingspan River	30 (10/1-3/31) 55 (4/1-9/30)	11/08/1985
85CW0639	Roaring Fork River	Confluence Fryingspan River	Confluence Crystal River	75 (10/1-3/31) 145 (4/1-9/30)	11/08/1985
10CW0184^	Roaring Fork River	Confluence Maroon Creek	Confluence Own Creek	3.54 (5/1-10/31)	06/30/1904
10CW0184^	Roaring Fork River	Confluence Own Creek	Confluence Fryingspan River	0.15-0.89 (dates vary)	06/30/1904
W-2656	Hunter Creek	Confluence No Name Creek	Confluence Fryingspan River	14 (1/1-12/31)	02/26/1975
79CW0190*	Hunter Creek	Confluence No Name Creek	Confluence Roaring Fork River	16 (1/1-12/31)	01/31/1979
80CW0018^	Hunter Creek	Various ditches & Historical return flow points	Confluence Roaring Fork River & Historical return flow points	0.005-15.3 (1/1-12/31)	Varies: 1946-1967
80CW0061^	Hunter Creek	Hunter Creek Flume and Pipeline	Confluence Roaring Fork River	15 (1/1-12/31)	06/10/1886

80CW0062^	Hunter Creek	Red Mountain Ditch headgate	Confluence Roaring Fork River	0.5 (1/1-12/31)	05/15/1884
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* Increased

^ Donated/Acquired Water Right

Potential for Injury

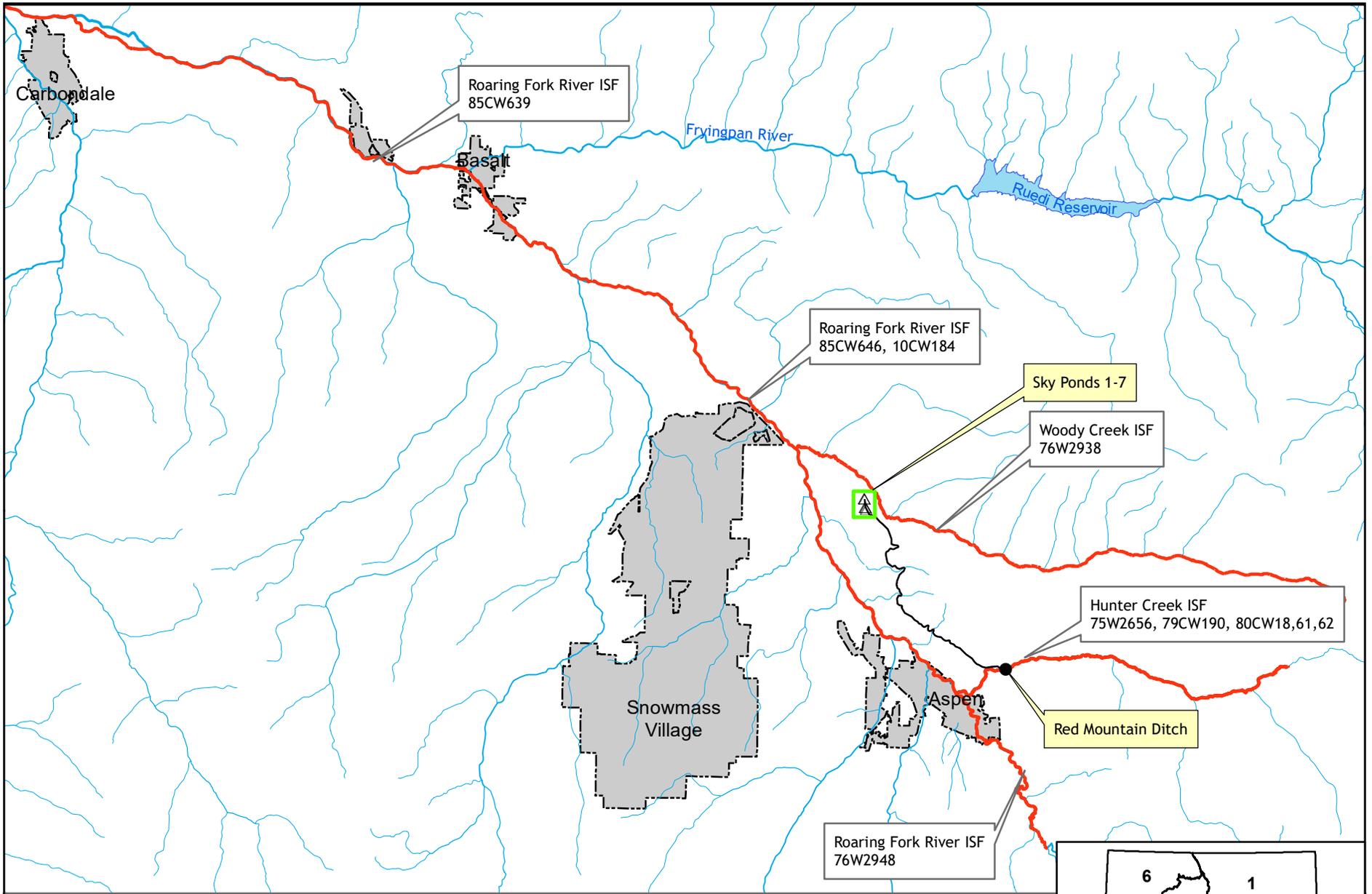
- The proposed plan for augmentation and exchange may not replace depletions in the proper time, place and amount, which could injure the CWCB's instream flow water rights.

Other Objectors

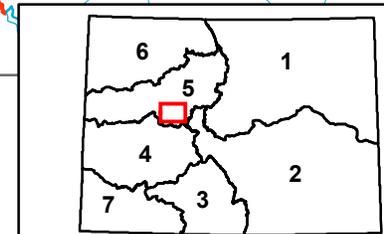
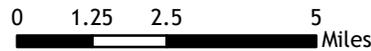
Statements of Opposition were also filed by City of Aspen, Salvation Ditch Company, and MAM Aspen, LLC.

Attorney Representing CWCB

Ema I. G. Schultz, Assistant Attorney General, is assigned to this case and can be contacted at ema.schultz@coag.gov, or 720-508-6307.



July 17-18, 2019 CWCB Board Meeting
 Consent Agenda Item 1.d Statement of Opposition
 Case No. 19CW3061 (Water Division 5)
 Starview Holdings LLC



DIVISION 5 WATER COURT- APRIL 2019 RESUME

20. PURSUANT TO C.R.S., §37-92-302, AS AMENDED, YOU ARE NOTIFIED THAT THE FOLLOWING PAGES COMPRISE A RESUME OF THE APPLICATIONS AND AMENDED APPLICATIONS FILED WITH THE WATER CLERK FOR WATER DIVISION 5 DURING THE MONTH OF APRIL 2019. *The water right claimed by this application may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest within the time provided by statute or be forever barred.*

19CW3061 PITKIN COUNTY. HUNTER CREEK, TRIBUTARY TO ROARING FORK RIVER. StarView Holdings, LLC, c/o Craig V. Corona, Esq., Corona Water Law, 420 E. Main Street, Suite 210B, Aspen, CO 81611, (970) 948 -6523.

APPLICATION FOR STORAGE WATER RIGHTS AND AUGMENTATION PLAN. FIRST CLAIM: FOR STORAGE WATER RIGHT. Name: SkyPond 1. Legal description: Easting 339384.1, Northing 4347339.9, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: August 1, 1991. How appropriation was initiated: A prior configuration of the pond was constructed, filled, and used. Amounts claimed: Total: 1.5 acre-feet, conditional for all uses; with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 1 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Surface area of high-water line: 0.332 acres. Vertical height of dam: 10 feet. Length of dam in feet: 135 feet. Total capacity of reservoir in acre-feet: 1.5 acre-feet. Active capacity: 1.5 acre-feet. Dead Storage: 0 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey, Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. SECOND CLAIM: FOR STORAGE WATER RIGHT. Name: SkyPond 2. Legal description: Easting 339367.1, Northing 4347349.4, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff and precipitation tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: Date application filed. How appropriation was initiated: Filing the application in this case. Amounts claimed: Total: 0.15 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 2 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Surface area of high water line: 0.055 acres. Vertical height of dam: 6 feet. Length of dam in feet: 105 feet. Total capacity of reservoir in acre-feet: 0.15 acre-feet. Active capacity: 0.15 acre-feet. Dead Storage: 0 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. THIRD CLAIM: FOR STORAGE WATER RIGHT. Name: SkyPond 3. Legal description: Easting 339362.2, Northing 4347362.0, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: Date application filed. How appropriation was initiated: Filing the application in this case. Amounts claimed: 0.02 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 3 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Surface area of high water line: 0.022 acres. Vertical height of dam: 2 feet. Length of dam in feet: 50 feet. Total capacity of reservoir in acre-feet: 0.02 acre-feet. Active capacity: 0.02 acre-feet. Dead Storage: 0. Place of use: Applicant's property

described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. **FOURTH CLAIM: FOR STORAGE WATER RIGHT.** Name: SkyPond 4. Legal description: Easting 339440.7, Northing 4347010.3, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: August 1, 1991. How appropriation was initiated: A prior configuration of the pond was constructed, filled, and used. Amounts claimed: 0.07 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 4 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Surface area of high-water line: 0.044 acres. Vertical height of dam: 4 feet. Length of dam in feet: 36 feet. Total capacity of reservoir in acre-feet: 0.07 acre-feet. Active capacity: 0.06 acre-feet Dead Storage: 0.01 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. **FIFTH CLAIM: FOR STORAGE WATER RIGHT.** Name: SkyPond 5. Legal description: Easting 339415.9, Northing 4347024.8, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: August 1, 1991. How appropriation was initiated: A prior configuration of the pond was constructed, filled, and used. Amounts claimed: Total: 0.17 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 5 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Surface area of high water line: 0.086 acres. Vertical height of dam: 2 feet. Length of dam in feet: 85 feet. Total capacity of reservoir in acre-feet: 0.17 acre-feet. Active capacity: 0.13 acre-feet Dead Storage: 0.04 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey, Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. **SIXTH CLAIM: FOR STORAGE WATER RIGHT.** Name: SkyPond 6. Legal description: Easting 339402.5, Northing 4347034.2, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: August 1, 1991. How appropriation was initiated: A prior configuration of the pond was constructed, filled, and used. Amounts claimed: 1.17 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 6 can also be used as an irrigation control structure for diversions under the Red Mountain Ditch water rights. Surface area of high-water line: 0.191 acres. Vertical height of dam: N/A, excavated. Length of dam in feet: N/A, excavated. Total capacity of reservoir in acre-feet: 1.17 acre-feet. Active capacity: 0 acre-feet. Dead Storage: 1.17 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey, Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. **SEVENTH CLAIM: FOR STORAGE WATER RIGHT.** Name: SkyPond 7. Legal description: Easting 339453.0, Northing 4346956.0, Zone 13 North, NAD83. Street Address: 1525 Star Mesa Drive, Snowmass CO, 81611, Parcel No. 264322100001. Source: Hunter Creek, via the Red Mountain Ditch; also surface runoff, and precipitation, tributary to the Roaring Fork River, tributary to the Colorado River. Ditch used for filling: Red Mountain Ditch. Capacity: 24 cfs. Legal Description of Red Mountain Ditch point of diversion: Easting 344603, Northing 4341066, Zone 13 North, NAD83. Appropriation. Date: August 1, 1991. How appropriation was

initiated: A prior configuration of the pond was constructed, filled, and used. Amounts claimed: 0.28 acre-feet, conditional for all uses, with the right to fill and re-fill in priority. Diversion Rate for Filling: 0.375 cfs. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Remark: SkyPond 7 can also be used as an irrigation control structure for diversions under Applicant's Red Mountain Ditch water rights. Also, SkyPond 7 may be split into three smaller ponds for which the total surface area and volume will not exceed the claimed surface area and volume for SkyPond 7. Surface area of high water line: 0.039 acres. Vertical height of dam: N/A, excavated. Length of dam in feet: N/A, excavated. Total capacity of reservoir in acre-feet: 0.28 acre-feet. Active capacity: 0 acre-feet Dead Storage: 0.28 acre-feet. Place of use: Applicant's property described above. The headgate of the Red Mountain Ditch is located on property owned by Thomas D. McCloskey, Jr. and Bonnie P. McCloskey, 2300 Red Mountain Rd., Aspen, CO 81611. **EIGHTH CLAIM: PLAN FOR AUGMENTATION.** Name of structures to be augmented: SkyPonds 1-7. Legal Description: See above. Appropriation Dates: See above. Amount: See above. The total amount of surface area for which evaporation replacement will be augmented is 0.769 acres. Source: See above. Hunter Creek via Red Mountain Ditch; surface runoff and precipitation. Uses: Recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Water rights to be used for augmentation: reservoir releases pursuant to Applicant's contract with the Basalt Water Conservancy District; SkyPonds 1-7. **Basalt Water Conservancy District augmentation supplies:** Green Mountain Reservoir: Source: Blue River, tributary of Colorado River. Legal description: located approximately 16 miles Southeast of the Town of Kremmling in Summit County, Colorado, and more particularly in all or parts of Sections 11, 12, 13, 14, 15, and 24 of Township 2 South, Range 80 West, and in Sections 17, 18, 19, 20, 21, 28, 29, and 34, Township 2 South, Range 79 West of the 6th P.M. Adjudication Date: October 12, 1955. Appropriation Date: August 1, 1935. Case Nos.: 2782, 5016, and 5017, Court: United States District Court, District of Colorado and Case No. 88CW022, District Court, Water Division No. 5. Decreed Amount: 154,645 acre feet and a refill right in the amount of 3,856 acre feet absolute and 150,789 acre feet, conditional. Decreed Uses: in accordance with paragraph 5(a), (b), and (c) of the section entitled "Manner of Operation of Project Facilities and Auxiliary Facilities" in Senate Document 80. Ruedi Reservoir: Source: Frying Pan River, tributary of Colorado River. Legal description: an on-channel reservoir located in Sections 7, 8, 9, 11, and 14 through 18, Township 8 South, Range 84 West of the 6th P.M. The reservoir is located in portions of Eagle and Pitkin Counties. Adjudication Date: June 20, 1958. Appropriation Date: July 29, 1957. Case No.: C.A. 4613, Garfield County District Court. Decreed Amount: 102,369 acre feet (Originally decreed for 140,697.3 acre feet; reduced to 102,369 acre feet in Case No. W-789-76). Decreed Uses: generation of electric energy, domestic, municipal, industrial, irrigation, piscatorial, and stock watering. Refill: By decree of the Water Court in Case No. 81CW34, Ruedi Reservoir was decreed a refill right in the amount of 101,280 acre feet, conditional. In Water Court Case No. 95CW95, 44,509 acre feet of the refill right was made absolute. In Water Court Case No. 01CW269, an additional 25,257 acre feet of the refill right was made absolute, for a total of 69,766 acre feet absolute in the refill right. Information from previous decrees for Troy Ditch and Edith Ditch rights:

STRUCTURE	PRIORITY	COURT CASE NO.	ADJ DATE	APP DATE	DECREED AMOUNT (CFS)	USE (4)	AMOUNT SOLD, TRANSFERRED OR RESERVED					AMOUNT REMAINING (10)	
							(5)	(6)	(7)	(8)	(9)	CFS	AF
Troy Ditch (1)	370	3082	08/25/1936	05/01/1906	5.10	I	0.000	0.000	0.095	0.064	0.035	4.906	N/A
Troy Ditch 1st Enlg	427	3082	08/25/1936	05/01/1928	10.80	I	0.000	0.000	0.200	0.134	0.073	10.393	N/A
Troy Ditch 2nd Enlg	669	4613	06/20/1958	06/01/1942	6.20	I	0.000	0.000	0.115	0.077	0.042	5.966	N/A
Edith Ditch	353	3082	08/25/1936	05/01/1904	2.72	I	0.110	0.1320	0.050	0.000	0.018	2.410	N/A
Edith Ditch 1st Enlg	673	4613	06/20/1958	07/01/1946	3.23	I	0.000	0.000	0.060	0.000	0.022	3.148	N/A
Troy Ditch Water System aka Lower Headgate	(2)	W-2281			15.50(9)	I,D,M,C,P	0.110	0.1320	0.520	0.275	0.190	14.273	412.89

- (1) Originally diverted from Miller Creek. All others originally diverted from Frying Pan River.
- (2) Alternate point for all priorities of Troy and Edith Ditches.
- (3) Combined amount limited to 15.5 cfs and 453 AF of consumptive use, 300 AF of which can be stored.
- (4) I = Irrigation, D = Domestic, M = Municipal, C = Industrial and P = Piscatorial.
- (5) Transferred to Edith Ditch Well in Case No. 80CW1 with 1.0 AF.
- (6) Transferred to three springs on Cap K Ranch in Case No. 82CW189 (1.29 AF assumed to be included).
- (7) Deeded to George Yates with 15.4 AF in 1983. 0.2 cfs and 10.60 cfs was included in Case No. 82CW357 for Ruedi South Shores augmentation plan.
- (8) Deeded to Joan Wheeler in 1987 for diversion at the Troy Ditch 1st and 2nd Enlargement (16.9 AF assumed to be included).
- (9) Reserved for augmentation of Cap K Ponds with 5.52 AF. Case No. 91CW220.
- (10) A total of 40.11 AF of the original 453.00 AF has been sold or transferred.

The Troy and Edith augmentation water can be delivered to the Frying Pan, Roaring Fork or Colorado Rivers by bypassing water at the headgate on the Frying Pan River. Information from previous decrees for Robinson Ditch rights:

STRUCTURE	DECREED AMOUNT/ cfs	AMOUNT OWNED BY BWCD (cfs)(1)	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. (2)
ON ROBINS DITCH	5.00	1.21	05/1 1/1889	06/1 5/1882	38	132
ON ROBINS DITCH	2.50	0.60	05/1 1/1889	04/1 5/1886	140	132
ON ROBINS DITCH	2.00	0.48	05/1 1/1889	11/1 5/1886	167	132
ON ROBINS DITCH	10.70	2.59	12/2 9/1903	04/2 5/1899	C 212	1061
ON ROBINS DITCH	20.06	4.85	08/2 5/1936	04/2 5/1900	326	3082

- (1) The BWCD owns 441 shares of Class 1 stock issued by the Robinson Ditch Company. The said 441 shares equal 24.16% of the total shares and are associated with 9.73 cfs of the 40.26 cfs decreed to the Robinson Ditch.
- (2) District Court in and for Garfield County

Legal Description of Point of Diversion: The point of diversion as decreed is located on the North bank of the Roaring Fork River one-half mile below the mouth of Sopris Creek in Section 11, T. 8 S., R. 87 West, 6th P.M. Historic Use: Irrigation of approximately 137.2 acres of hay and pasture under BWCD's interest in the Robinson Ditch water rights. In Case No. 93CW319, the Court decreed that 360 acre feet of annual consumptive-use credits are associated with said irrigation. In that case, the Court also decreed a change of use of BWCD's Robinson Ditch rights to include augmentation. BWCD makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of Court. Information from previous decrees for Favre Domestic Pipeline: **This water right is used only for Blue Creek depletions.**

STRUCTURE	AMOUNT ¹	ADJ. DATE	APP. DATE	PRIORITY	CASE NO. ²
FAVRE DOM. PL. SP. NO. 1	0.5	06/20/1	08/11/1	649	4613
FAVRE DOM. PL. SP. NO. 2	0.5	06/20/1	04/15/1	666	4613

Amount: Each spring is decreed for 0.50 cfs, but the use of both has a combined limit of 0.50 cfs. (2) District Court in and for Garfield County Legal Description: Favre Domestic Pipeline - Spring No. 1: Located at a point whence the E¼ corner, Section 34, Township 7 South, Range 87 West, 6th P.M. bears South 34E26' East, 890.9 feet. Favre Domestic Pipeline - Spring No. 2: Located at a point whence the E¼ corner, Section 34, Township 7 South, Range 87 West, 6th P.M. bears South 3724' East 721.4 feet. Blue Creek, which is tributary to Roaring Fork River. Decreed Use: Domestic and augmentation. Historic Use: BWCD owns the Favre Domestic Pipeline right. The Springs historically provided a majority of the domestic water supply for El Jebel, a community of 364 EQRs, consisting of two hundred and ninety-one single family residential units (mostly mobile homes), irrigation of 12.5 acres of lawn and landscape, and commercial development. In Case No. 93CW319, the Court decreed that 142.82 acre feet of historical consumptive-use credits were available to Blue Creek as a result of such historic use; and that 67.2 acre feet of historical consumptive-use credits were available to the Roaring Fork River as a result of such historical use. In 93CW319, the Court also decreed a change of use of said credits to include augmentation. BWCD makes the credits available to contract allottees for use pursuant to an approved substitute supply plan or decree of Court. Applicant does not intend to change a water right to provide a source of augmentation. Complete statement of plan for augmentation: Applicant applies for this plan for augmentation to address calls from water rights on the mainstem of the Colorado River and on the mainstem of the Roaring Fork River below its confluence with the Fryingpan River with supplies provided by the Basalt Water Conservancy District. In addition, Applicant seeks to address calls from water rights between the confluence of the Roaring Fork River and Fryingpan River and the pond locations with releases from the ponds. At times when calls from the mainstem of the Colorado River or the Roaring Fork River (from below the Fryingpan confluence) would otherwise cause curtailment of Applicant's diversions to the ponds for evaporation replacement, Applicant will cause the release of water pursuant to its contract with the Basalt Water Conservancy District to address such calls. For calls from between the confluence of the Roaring Fork River and the Fryingpan River and the location of the ponds that would affect diversions to the ponds, Applicant may release water from one or more of the ponds to address such calls. Water released from the ponds exits Applicant's property via a natural gulch and is then conveyed in the Salvation Ditch to Woody Creek. The table attached to the Application as **Exhibit B** lists the depletions for the augmented uses and the estimated out-of-priority depletions requiring augmentation with Basalt District supplies. Based on these estimated calculations, Applicant will require 2.9 acre-feet, total, of contract release water to augment these uses vis-à-vis mainstem calls. Applicant reserves the right to revise these estimates, if necessary, as the case develops without re-publishing. Applicant does not estimate the frequency of calls from water rights between the Fryingpan and Roaring Fork confluence and the location of the ponds that could be augmented by release from SkyPonds 1-7. If calls occur from water rights in that reach, and if water is available for release from the ponds, Applicant may augment evaporation replacement by pond release. Otherwise, Applicant will operate as described below. At times when there is a valid senior call from above the point of replacement for the Basalt Water Conservancy District contract water releases that is recognized and administered by the Division Engineer (a "Local Call"), Applicant will either augment such a call by pond releases as described previously (if the call is from the reach addressed therein) or cease diverting water from the Red Mountain Ditch for the storage water rights and their uses claimed herein. Applicant may transfer water from one pond or ponds during a Local Call to maintain the levels of the other ponds. During times of a mainstem call, but no

Local Call or of a Local Call junior to the date of filing this application, Applicant will divert for the storage water rights and their uses claimed herein by exchange in priority at a rate of up to 0.375 cfs. During irrigation season, irrigation deliveries under Applicant's Red Mountain Ditch water rights may be temporarily held in the ponds under the Division of Water Resources "72-Hour Rule" and will be tracked with daily accounting. Applicant owns the property upon which any new diversion or storage structure, or any modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. Additional or alternate replacement supplies. In accordance with C.R.S. § 37-92-305(8)(c), or any subsequent amendment or revision thereof, Applicant may use additional or alternative sources of water for augmentation, substitution, replacement, and exchange pursuant to the decree entered upon this Application in the manner allowed by statute in place at the time Applicant seeks to use such additional or alternate replacement supplies. Applicant shall comply with all procedures required by such statute before using such additional or alternate supplies in this plan for augmentation. The Pitkin County RICD. The Pitkin County Recreational In-Channel Diversion ("Pitkin County RICD") was decreed in Case No. 2010CW305, District Court, Water Division 5, and is located on the Roaring Fork River upstream of the confluence of the Roaring Fork River and the Frying Pan River. The storage water rights sought by this Application will not be subject to call by the Pitkin County RICD as they are either senior to the Pitkin County RICD or are encompassed within the subordination agreement set forth in the decree in Case No.2010CW305, District Court, Water Division 5. **NINTH CLAIM: FOR APPROPRIATIVE EXCHANGE.** Name of exchange: StarView 2019 Exchange. Legal description of point of diversion: Upstream Terminus: Applicant will divert water at the point of diversion for the Red Mountain Ditch, previously described, and deliver it to Applicant's ponds. Downstream termini: Applicant will replace otherwise out-of-priority depletions from the diversions described previously by release of reservoir water pursuant to its Basalt Water Conservancy District contract. The points of replacement and, therefore, the downstream termini for the exchange will be the confluence of the Colorado River with the Roaring Fork River and the confluence of the Roaring Fork River with the Fryingpan River depending on the source of reservoir release. The confluence of the Roaring Fork River and the Colorado River is more particularly described as being located in the SE ¼, NW ¼ of Section 9, Township 6S, Range 89W of the 6th P.M. at a point approximately 2,200 feet from the North Section Line and 2,350 feet from the West Section Line of said Section 9. Easting 299767, Northing 4380328, Zone 13 North, NAD83. The confluence of the Roaring Fork and Fryingpan Rivers is more particularly described as being located in the SW ¼ of the SE ¼ of Section 7, T8S, R86W, in the 6th P.M. at a point 1,440 feet from the East section line, and 750 feet from the South section line. Easting 324752, Northing 4359438, Zone 13 North, NAD83. Source: Hunter Creek for upstream diversions. Colorado River and Fryingpan River for replacement sources to downstream points. Appropriation. Date of Appropriation: Date application filed. How appropriation initiated: filing the application in this case. Date water applied to beneficial use: N/A. Amount claimed: up to 0.375 cfs, 2.52 acre-feet annually, conditional. The rate associated with evaporation replacement and ditch loss is 0.026 cfs. Uses: Exchange to replace evaporation depletions from ponds for subsequent use for recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Applicant owns the property upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. **TENTH CLAIM: FOR APPROPRIATIVE EXCHANGE.** Name of exchange: StarView 2019 Exchange II. Legal description of point of diversion: Upstream Terminus: Applicant will divert water at the point of diversion for the Red Mountain Ditch and deliver it to Applicant's ponds. The point of diversion for the Red Mountain Ditch is described above. Downstream termini: Applicant will replace otherwise out-of-priority depletions from the diversions described previously by release of stored water from the SkyPonds 1-7. The point of replacement and, therefore, the downstream terminus for the exchange will be the confluence of Woody Creek and the Roaring Fork River, more particularly described as being located in the NE ¼ of the NW ¼ of Section 16, T9S, R85W, in the 6th P.M. at a point 311 feet from the West section line, and 134 feet from the North section line. Easting 336853, Northing 4349199, Zone 13 North, NAD83. Source: Hunter Creek for upstream diversions. Water stored in SkyPonds 1-7 for replacement to downstream points. Appropriation. Date of Appropriation: Date application filed. How appropriation initiated: filing the application in this case. Date water applied to beneficial use: N/A. Amount claimed: up to 0.375 cfs, 2.52 acre-feet annually, conditional. The rate associated with evaporation replacement and ditch loss is 0.026 cfs. Uses: Exchange to replace evaporation depletions from ponds for subsequent use for recreation, piscatorial, fish and wildlife habitat, fire protection, augmentation, irrigation, and aesthetic. Applicant owns the property upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool. More information is included in the application which can be obtained from the court or by contacting Craig Corona, Esq. at (970) 948-6523; cc@craigcoronalaw.com.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE until the last day of JUNE 2019 to file with the Water Clerk a verified Statement of Opposition setting forth facts as to why this application should not be granted or why it should be granted in part or on certain conditions. A copy of such statement of opposition must also be served upon the applicant or the applicant's attorney and an affidavit or certificate of such service shall be filed with the Water Clerk, as prescribed by Rule 5, CRCP. (Filing Fee: \$192.00) KATHY POWERS, Water Clerk, Water Division 5; 109 8th Street, Suite 104 Glenwood Springs, CO 81601.